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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VIGILANT INSURANCE COMPANY :

Plaintiff,	:	ECF CASE
- against -	:	07 Civ. 5910 (NRB)
M/V "CCNI CARTAGENA", her engines, tackle, boilers, etc.; CCNI; COMPANIA CHILENA DE NAVEGACION	:	COMPLAINT
INTEROCEANICA S.A;	:	
	:	
Defendants.	:	

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Plaintiff, through its undersigned attorney, alleges as follows for its complaint against defendants:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) with respect to the carriage of the subject cargo by sea and falls within the Court's, federal question, diversity, pendent, ancillary, and supplemental jurisdiction as to the remaining aspects of the claim. Plaintiff seeks recovery for cargo loss and damage caused by defendants' breaches of contract and torts. The amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

2. Plaintiff Vigilant Insurance Company ("Vigilant") is a New York corporation with its principal place of business in New Jersey and a place of business at 55 Water Street, New York, NY. Vigilant sues herein as subrogated insurer of the cargo in suit, having paid the insurance claim of The Charmer Sunbelt Group, Service

Universal Distributors, Inc., and for and on behalf of the shipper, consignee and owner of the cargo as their interests may appear.

3. Defendant Compania Chilena de Navegacion Interoceanica S.A. d/b/a CCNI (“CCNI”) is believed to be a corporation organized under the laws certain of a foreign sovereign.

4. This Court has jurisdiction over the *in personam* defendant, who conducts business in the State of New York and the United States as a whole within the meaning of to Rule 4(k)(2) Federal Rules of Civil Procedure.

5. Upon information and belief the captioned vessel is now, or will be during the pendency of this action, within the admiralty and maritime jurisdiction of this Honorable Court or otherwise subject to jurisdiction pursuant to Rule 4(k)(2) Federal Rules of Civil Procedure.

6. This action involves damage, including heat damage, to shipments of wine which moved in containers INBU509384-9 and TGHU428825-3 from San Antonio, Chile, to New York, New York, aboard the M/V “CCNI CARTAGENA”, Voyage 0602NB, as described more fully in CCNI bills of lading CLSAI-000038384-3 and CLSAI-000038415-5 dated on or about July 8, 2006, and others. (Norton Lilly Ref.: CC-162)

7. On or about July 8, 2006, as confirmed by the aforementioned bills of lading, the cargo was delivered into the care, custody and control of defendant CCNI who contracted to carry the cargo from place of receipt to the place of delivery. Although the cargo was in good order and condition at the place of origin, at the time of delivery by defendant CCNI the cargo was in damaged condition.

8. The aforementioned loss and damage was caused by the unseaworthiness of the carrying vessel and containers as well as defendants’ reckless failure to properly

and safely load, stow, carry, ventilate, protect, discharge, deliver and care for the subject cargo.

9. As a result of the foregoing, plaintiff and those on whose behalf it sues, has sustained damages in the amount of \$105,761.28 for which defendant CCNI and the vessels in rem are jointly and severally liable as common carriers bailees and/or warehousemen for hire.

10. Plaintiff sues on its own behalf and as agent and trustee for and on behalf of anyone else who may now have or hereafter acquire an interest in this action.

WHEREFORE, plaintiff demands judgment against defendants CCNI and the vessel in rem jointly and severally in the amount of \$105,761.28 together with interest at the rate of 9% per annum and the costs of this action and prays that this Honorable Court issue its process against the aforesaid vessel in rem.

Dated: New York, New York
June 21, 2007

Law Offices,
DAVID L. MAZAROLI

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